

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ASTUTE IMAGING LLC, a Delaware limited liability company,

Plaintiff,

vs.

SHOULDER INNOVATIONS INC., a Delaware corporation; GENESIS INNOVATION GROUP, LLC, a Delaware limited liability company; and GENESIS SOFTWARE INNOVATION, LLC, a Michigan limited liability company,

Defendants.

NO. 2:23-cv-01097-MJP

DECLARATION OF ROBERT BALL, SHOULDER INNOVATIONS INC., IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS UNDER FRCP 12(b)(2), 12(b)(3), 12(b)(6)

Robert Ball declares:

1. I, Robert Ball, am the Chief Executive Officer and Executive Chairman of Shoulder Innovations, Inc. ("SI"), one of the defendants in the above-captioned matter. I have personal knowledge of the facts stated in this declaration and am competent to testify to those facts.
2. Shoulder Innovations, Inc. is corporation incorporated under the laws of the state of Delaware, with a principal place of business and corporate headquarters located in Grand Rapids, Michigan. SI is a medical device development company that designs and commercializes innovative products, focusing on surgical shoulder replacement systems.
3. SI has no business operations, offices, retail outlets, or comparable facilities in the state of Washington. It has no physical presence in the state of Washington. It is not registered

1 or otherwise qualified to conduct business in the state of Washington, has no registered
2 agents, employees, representatives, or independent contractors residing or domiciled in the
3 state of Washington; nor has SI contracted with persons residing in the state of Washington to
4 act on its behalf with respect to marketing, distributing, or servicing any of SI's services or
5 products.

6 4. SI does not have any subsidiaries incorporated or otherwise qualified to do business in
7 the state of Washington.

8 5. SI does not maintain any physical presence, tangible, personal, or real property or
9 assets in the state of Washington. It does not have telephone listings, mailing addresses or
10 bank accounts in the state of Washington.

11 6. SI sells various innovative, medical device products including its InSet Total Shoulder
12 System, which is designed for Anatomic Shoulder Arthroplasty. PreView Shoulder is an
13 optional software product which assists surgeons in planning and navigating the surgical
14 procedures to be performed. SI does not charge for use of the PreView software and does not
15 receive any increase in pricing on any other products because of its use. Access to the
16 software is SI branded, but is hosted and managed via Genesis Software Innovations, LLC's
17 ("GSI") infrastructure.

18 7. From the time period of September 2020 to August 2023, SI sold its goods, products,
19 or services to only three customers in the state of Washington. These sales did not include the
20 use of SI's PreView Shoulder system. These sales accounted for 0.10% of SI's total revenue
21 during this time period. No customer or client has downloaded or otherwise used SI's
22 PreView Shoulder system in the state of Washington.

1 8. No meetings of SI's clinical, leadership, or management team or Board of Directors
2 have occurred in the state of Washington and none of its officers has attended business
3 conferences or conducted business on SI's behalf within the state of Washington.

4 9. SI does not direct any of its advertising specifically towards the state of Washington or
5 its residents, nor does it advertise in any publications or solicit sales that are directed
6 primarily towards the state of Washington or its residents.

7 10. The only contact that SI has with the state of Washington is that it maintains an
8 internet website, <https://shoulderinnovations.com/>. No sales or transactions have been
9 consummated via this website.

10 11. The acts or omissions for which SI is sought to be held liable in this action all
11 occurred outside the state of Washington.

12 12. Having to defend this action in the state of Washington would be burdensome to SI
13 because all of SI's officers and executive level management reside outside the state of
14 Washington. The records, documents, books, records, and any witnesses pertaining to this
15 matter are also located outside the state of Washington.

16 I declare under the penalty of perjury that the foregoing is true and correct.

17
18 Executed on: 10/16/2023 at Fountain Hills, AZ.

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20
21 /s/  _____